

E-filed on: 1/22/2009

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LORI BELTRAN *et al.*,

Plaintiffs,

v.

COUNTY OF SANTA CLARA, *et al.*,

Defendants.

No. C-03-03767 RMW

ORDER GRANTING IN PART AND
DENYING IN PART *EX PARTE*
APPLICATION TO CHANGE HEARING
DATE/BRIEFING SCHEDULE ON
CONDITIONS

[Re Docket No. 152]

Plaintiffs filed an *ex parte* application for an order continuing the hearing on Defendants' motion for summary judgment from February 13, 2009 to February 27, 2009. Plaintiffs contend that such relief is necessary to permit their counsel to oppose the motion. *See generally* Decl. of Robert R. Powell, Docket No. 153. Defendants oppose the application.

The February 13, 2009 hearing date was set by the court as the last day on which summary judgment motions would be heard. *See* Docket No. 123 (Aug. 15, 2008). Thus, since August of 2008, Plaintiffs have been aware of the likelihood that their counsel would need to spend time in January to oppose a motion for summary judgment. Plaintiffs' counsel appears now to have a very busy January planned, but that does not in itself provide good cause for modifying a scheduling order that the parties have been guided by for months. However, the motion for summary judgment

1 is twenty-five pages in length and supported by several declarations and numerous exhibits. Further,
2 the parties recently agreed to extend the deadlines for expert disclosure and expert discovery. Under
3 the circumstances, the court will grant Plaintiffs' request on the following conditions: (1) that all
4 scheduling dates are reset for a similar amount of time—that includes resetting the trial to
5 commence on April 20 or 27 and correspondingly setting the pretrial conference for April 9 or 16;
6 and (2) that a written stipulation be filed with all the new scheduling dates by January 23, 2009 at
7 5:00 p.m. Absent the timely filing of such stipulation, all the current scheduling dates remain except
8 that Plaintiffs may have until Monday, January 26 at 5:00 p.m. to file their opposition to the
9 summary judgment motion. The parties are expected to work in good faith to agree to a revised
10 schedule.

11 Plaintiffs also request digital Word or WordPerfect copies of the Defendants' filings. There
12 is no requirement to provide such materials, and the defendants have a legitimate basis for declining
13 to do so. Therefore, the request is denied.

14
15 DATED: 1/22/2009



RONALD M. WHYTE
United States District Judge

1 Notice of this document has been electronically sent to:

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7 Counsel are responsible for distributing copies of this document to co-counsel that have not
8 registered for e-filing under the court's CM/ECF program.

9 **Dated:** 1/22/2009

TSF
Chambers of Judge Whyte